

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jerome Wells	Team: Team # 2	CCRB Case #: 200305051	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/01/2003 2:00 AM	Location of Incident: § 87(2)(b) Bronx	Precinct: 42	18 Mo. SOL 12/1/2004	EO SOL 12/1/2004	
Date/Time CV Reported Thu, 07/03/2003 2:41 PM	CV Reported At: Other City agency	How CV Reported: Mail	Date/Time Received at CCRB Thu, 07/03/2003 2:41 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Anthony Demonte	19559	925184	PSA 7
3. POM Daniel Brady	28612	924976	PSA 7
4. POM Vincent Comisso	29818	915484	PSA 7
5. POM Harold Thompson	08877	913348	PSA 7
6. SSA Edward Fackler	03782	913213	PSA 7
7. LT James Glenn	00000	893104	042 PCT
8. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Discourtesy: Officers spoke obscenely and/or rudely to the residents of § 87(2)(b) Bronx, NY 10456.	
B.LT James Glenn	Abuse: Lt. James Glenn authorized the officers to enter § 87(2)(b) Bronx NY 10456.	
C.POM Anthony Demonte	Abuse: PO Anthony Demonte drew his gun.	
D.POM Harold Thompson	Abuse: PO Harold Thompson drew his gun.	
E. Officers	Abuse: Officers drew their guns.	
F.POM Anthony Demonte	Force: PO Anthony Demonte pointed his gun at § 87(2)(b)	
G.POM Anthony Demonte	Force: PO Anthony Demonte used physical force against § 87(2)(b) and § 87(2)(b)	
H.POM Vincent Comisso	Force: PO Vincent Comisso used physical force against § 87(2)(b) and § 87(2)(b)	
I.POM Daniel Brady	Force: PO Daniel Brady used physical force against § 87(2)(b) and § 87(2)(b)	
J.POM Harold Thompson	Force: PO Harold Thompson used physical force against § 87(2)(b) and § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K. An officer	Force: An officer struck § 87(2)(b) with a nightstick.	
L. An officer	Force: An officer used physical force against § 87(2)(b)	

Synopsis

On June 17, 2003, complainant, § 87(2)(b) sent a letter to Mayor Bloomberg's Office to file a complaint. The complaint was then forwarded to IAB and received at the CCRB on July 3, 2003. § 87(2)(b) alleges that on June 1, 2003 she was in her apartment located at § 87(2)(b) with her three young children, her mother § 87(2)(b) her brother § 87(2)(b) his girlfriend § 87(2)(b) and his friend § 87(2)(b) § 87(2)(b) and § 87(2)(b) went to a party in § 87(2)(b) in the same building earlier that night. During this party, a fight broke out and numerous people were stabbed with a broken bottle, including one male who, by officer descriptions, was cut from ear to ear. § 87(2)(b) and § 87(2)(b) claimed that they were not involved in the stabbing, although witness, § 87(2)(b) who lives in the apartment where the party was held, informed the officers that these two committed the stabbings. At approximately 3:15 AM, the people inside the apartment heard banging on the door, and male voices yelling "Open the fucking door" (Allegation A). § 87(2)(b) stated the door was then kicked open (Allegation B), and officers entered the apartment with their guns drawn (Allegations C-E), and pointed them at her (Allegation F). § 87(2)(b) stated that the officers approached § 87(2)(b) and immediately used force towards him. § 87(2)(b) then tackled the officers to prevent them from hitting § 87(2)(b) and the officers began to use force towards § 87(2)(b) (Allegation G-J). § 87(2)(b) stated that one of the officers hit § 87(2)(b) with a nightstick. (Allegation K). § 87(2)(b) further stated that she tried to prevent the officers from hitting § 87(2)(b) and an officer punched her in the face. (Allegation L).

This case was reassigned to Investigator Wells on November 24, 2003.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on July 21, 2003. § 87(2)(b) and § 87(2)(b) were both interviewed at the CCRB on July 31, 2003. On the night of June 1, 2003, § 87(2)(b) was in her apartment located at § 87(2)(b) in the Bronx, with her three children (§ 87(2)(b)), her mother, § 87(2)(b) her brother, § 87(2)(b) his girlfriend, § 87(2)(b) and his friend, § 87(2)(b). She stated that § 87(2)(b) and § 87(2)(b) had gone to a house party thrown by her children's father in § 87(2)(b) and returned to § 87(2)(b)'s apartment at approximately 1:30 A.M. After they returned from the party, everyone in the apartment got ready for bed and went into their respective rooms. § 87(2)(g) According to § 87(2)(b) § 87(2)(b) and the three children were in § 87(2)(b)'s room, § 87(2)(b) and § 87(2)(b) were in the second room, and § 87(2)(b) was in the third. § 87(2)(b) stated that neither her brother nor his friend mentioned that there had been a fight or any kind of trouble at the party, and that they did not talk much about the party at all. § 87(2)(b) and § 87(2)(b) stated that everyone in the apartment was in § 87(2)(b)'s room, and § 87(2)(b) stated that § 87(2)(b) was telling everyone in the room about a fight that happened at the party.

About an hour after § 87(2)(b) and § 87(2)(b) came back from the party, § 87(2)(b) stated she was woken up by loud banging on her apartment door and male voices yelling, "Open the fucking door." As soon as the banging started, everyone in the apartment came into § 87(2)(b)'s room, and asked what was going on. § 87(2)(b) went out into the living room to see who was at the door; but as soon as she stepped out of her room, the lock and the peephole of her apartment door fell off of the door, and about ten officers rushed into the apartment with their guns pointed at § 87(2)(b). § 87(2)(b) stated that almost all the officers were dressed in blue uniforms, except for Lt. Glenn, who was wearing a white shirt. The officers yelled at her to put her hands back, and Lt. Glenn grabbed her arm and passed her on to another officer standing behind him.

As § 87(2)(b) was being taken out of her apartment, she saw her brother come out of her room asking, "What happened? Do you have a search warrant?" However, as soon as her brother came out of the room, about three-four male officers "jumped on him" and started to hit him. § 87(2)(b) stated that the officers did not ask him any questions or give him any orders before attacking him, and that her brother did not try to hit the officers or have any weapons on him when he came out of her room. She stated that she saw the officers punch her brother in his face, kick him with their feet, and beat him with nightsticks. She, however, stated that she could not remember who the officers were or what they looked like, and which officer was doing what, because "everything happened so fast," and the other officers kept on pushing her out. While the officers were still hitting § 87(2)(b), § 87(2)(b) came out from her room, followed by § 87(2)(b). § 87(2)(b) tried to get in between the officers and § 87(2)(b) and pull him away from the officers, but an officer suddenly got up and punched § 87(2)(b) in the face. § 87(2)(b) stated that her mother did not push or hit any of the officers, and that she only tried to stop the officers from hitting § 87(2)(b). When the officer hit § 87(2)(b) in her face, § 87(2)(b) tackled the officers, but § 87(2)(b) could not see what happened from that point on because she was taken outside. § 87(2)(b) however, stated that the officers were still hitting § 87(2)(b) when she was leaving and that she later heard from her mother that the officers beat § 87(2)(b) even after they handcuffed him and that § 87(2)(b) was knocked unconscious at one point. § 87(2)(b) stated that she was ordered to leave and she did not see what transpired inside the apartment. She stated she heard yelling, but did not hear any of the officers speaking discourteously to anyone.

§ 87(2)(b) stated that when she was taken outside, there were more about ten more officers standing in the hallway. PO Olivo took § 87(2)(b) to the other end of the hallway and asked her some questions. § 87(2)(b) was not sure but did not think that PO Olivo was one of the officers in the apartment and did not recall whether there were other female officers at the location. After the female officer took § 87(2)(b)'s pedigree information, Lt. Glenn came out of the apartment and took § 87(2)(b) to the staircase. He then asked her whether she knew anything about the fight downstairs, and § 87(2)(b) responded that she did not. Lt. Glenn then explained to her that they did not have a search warrant and that they broke down the door and came into the apartment because "they thought they saw someone lying on the floor." § 87(2)(b) stated that she did not understand how this was possible since the apartment door was closed, and no one was lying on the living room floor when the officers first started banging on the door, but stated that she was too tired and confused to question the officer's statement at that time.

A few minutes after § 87(2)(b) was taken out of the apartment, § 87(2)(b) and § 87(2)(b) were also taken out to where § 87(2)(b) was standing. After about an hour later, § 87(2)(b) and § 87(2)(b) were taken out of the apartment in handcuffs and were taken to § 87(2)(b). § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) had swollen eyes and cheeks and that § 87(2)(b) had a big bump on his head and was limping. § 87(2)(b) also stated that § 87(2)(b) had a swollen cheek, but she was not taken to a hospital. § 87(2)(b) confirmed this. When asked, § 87(2)(b) stated that her arm and her feet were sore the next day, but she was not sure what caused it.

As § 87(2)(b) and § 87(2)(b) were being taken out of the apartment, § 87(2)(b) saw that there were about 5-6 more uniformed officers out in the hallway. She also said that PO Glenn came in sometime after § 87(2)(b) was handcuffed and told her to calm down because she was hysterical. She, however, said that PO Glenn did not see the other officers beating § 87(2)(b). When § 87(2)(b) and § 87(2)(b) were taken to the precinct later that day, § 87(2)(b) went there to check on them. There, she spoke with some unidentified officers and learned more names of the officers who were at her apartment and also was told that the officers broke into her apartment because they "saw a dead man lying down on the floor of the living room."

Results of Investigation

On October 20, 2003, an attempt to contact § 87(2)(b) § 87(2)(b) was made. § 87(2)(b) was not home at the time, but Investigator Hong spoke to his brother, § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) stated he did not witness what transpired in § 87(2)(b) because he was injured during the party. § 87(2)(b) § 87(2)(b) stated his brother informed him on what transpired at a later time. He was told that officers tried to get into § 87(2)(b) but the people inside the apartment would not open the door. The officers then

forced their way into the apartment. § 87(2)(b) and § 87(2)(b) then attacked the officers and the officers had to use force to restrain them.

On October 31, 2003, Investigator Hong spoke to § 87(2)(b). § 87(2)(b) stated he led the officers from his § 87(2)(b) to § 87(2)(b). The officers knocked on the door for ten minutes but no one answered the door. The officers decided to take out the doorknob and looked inside the apartment. The officers stated they saw someone in the apartment, kicked down the door, and rushed into the apartment. § 87(2)(b) stated the officers made him stay in the hallway, and he was not able to see what transpired inside. When the officers brought § 87(2)(b) and § 87(2)(b) outside of the apartment, and asked § 87(2)(b) to identify them, he noticed that § 87(2)(b) and § 87(2)(b)'s faces were covered in bruises. § 87(2)(b) stated that he did not see those bruises on their faces when he saw them earlier that night. After this conversation, the Investigator has made numerous attempts to contact § 87(2)(b) and schedule him for an in-person interview. The Investigator called § 87(2)(b) on May 5, 2004, and July 10, 2004, left a message for him with his brother on June 30, 2004, and sent him a letter on July 2, 2004. § 87(2)(b) has not responded to any of these attempts.

Civilian Statements

§ 87(2)(b) - Victim

§ 87(2)(b) was interviewed at § 87(2)(b) at Rikers Island. On June 1, 2003, sometime before 2 AM, § 87(2)(b) returned to his apartment located at § 87(2)(b). § 87(2)(b) from a party in § 87(2)(b) in the same building. § 87(2)(b) stated that he went to his party with his girlfriend, § 87(2)(b) and his friend, § 87(2)(b) and that they all returned to § 87(2)(b)'s apartment. § 87(2)(b) also stated that his sister, § 87(2)(b), his mother, § 87(2)(b), and his three nephews § 87(2)(b) also lived with him and were getting ready to sleep in § 87(2)(b)'s room when he returned to his apartment.

Shortly after § 87(2)(b) went into his room, he heard kicking on the front apartment door. He and § 87(2)(b) then went into § 87(2)(b)'s room wondering who was kicking the door. Then suddenly the door was kicked down and a number of police officers dressed in blue uniform, and about two in white shirts, rushed into his apartment. § 87(2)(b) said that the officers did not announce themselves as the police or say anything, including, "Open the fucking door," before kicking down the door. When the officers came in, § 87(2)(b) rushed out to the hallway and stated, "What the fuck are you doing here." He then tried to ask the first officer who approached him for a warrant, but instead of responding to his question, PO #1 told § 87(2)(b) "Shut the fuck up. We don't need that shit," and punched § 87(2)(b) in the face under his left eye.

At this time, § 87(2)(b) got in between § 87(2)(b) and the officer to push § 87(2)(b) away and block him from more blows, but the officer punched § 87(2)(b) in the face, as well. When asked, § 87(2)(b) said that his mother never tried to hit the officers. § 87(2)(b) then tried to push the officer away from him and his mother, but a number of other officers, § 87(2)(b) was not sure how many and could not describe any of them, came up to him and started to hit him. Then when the officers got a hold of § 87(2)(b) they dragged him into the living room and threw him on the sofa, where he was handcuffed. § 87(2)(b) alleged that the officers continued to punch him in the face, back, and neck while and after the officers handcuffed him. When asked if he resisted the arrest, § 87(2)(b) stated that he tried to free himself and kicked at the officers to stop them from hitting him.

After § 87(2)(b) was handcuffed, the officers threw § 87(2)(b) onto the floor, and § 87(2)(b) was knocked unconscious. § 87(2)(b) stated that he did not remember anything that happened after this point and that he did not regain his consciousness until he got to § 87(2)(b) later that night. § 87(2)(b) however remembered that one of the officers stepped on his face at one point while he was on the floor and stated that the officers did not use anything (i.e. flashlights, radio, etc) other than their fists and their feet to strike him. He also stated that his friend, § 87(2)(b) jumped in and tried to pull § 87(2)(b) back and block him from the officers at one point while the officers were hitting him. § 87(2)(b) said that he

briefly saw § 87(2) being pulled away from him and being beaten by the officers, but stated that he did not see § 87(2) trying to hit any of the officers or how and which officers hit § 87(2)

When asked where § 87(2)(b) and § 87(2)(b) were, he said that he heard a male officer telling them to “get the fuck out of the apartment,” while he was being hit, and that he saw them standing in the doorway of the apartment. § 87(2)(b) also stated that § 87(2)(b) from § 87(2)(b) came up to his apartment with the officers and saw them hit him and § 87(2)(b) § 87(2)(b) said that he and § 87(2)(b) § 87(2)(b) used to be good friends and that he was the one with whom § 87(2)(b) has “this problem,” referring to his criminal case. When asked to explain what the “problem” was, he said that he was instructed by his attorney not to discuss his criminal case with this investigator.

§ 87(2)(b) stated that he sustained black eyes and a cut on his wrist as a result of this incident. He also said that his face was swollen and that his back and his neck hurt due to being kicked and punched there by the officers. He also said that § 87(2)(b)'s forehead was swollen and that his face was covered with bruises when he saw him at the hospital later that night. § 87(2)(b) said that neither he nor § 87(2)(b) had any bruises before the officers came into his apartment and that all the injuries were sustained as a result of the officers beating them. § 87(2)(b) said that he did not see any injuries on his mother.

§ 87(2)(b) – Victim

§ 87(2)(b) was interviewed at § 87(2)(b) facility at Rikers Island. § 87(2)(b) speaks Spanish and very little English, therefore Investigator Izquierdo was used as an interpreter. On June 1, 2003 at approximately 3:15 AM, § 87(2)(b) and § 87(2)(b)'s mother were in § 87(2)(b) at § 87(2)(b) with four children. § 87(2)(b) and § 87(2)(b) had returned from a party in their building (on a floor below theirs) approximately 30 minutes prior. § 87(2)(b) stated that there had been a fight at the party between two women, and § 87(2)(b) and § 87(2)(b) were not involved.

§ 87(2)(b) was in a bedroom watching television with the four children when he heard someone say “police,” after which, somebody entered the apartment. People began yelling in English, but he did not understand what was being said, because he speaks only Spanish. He left the bedroom and went to the living room, by the front door, and found that the police had entered the apartment. § 87(2)(b) believed that the police had responded to the apartment because of the fight earlier. The officers spoke to § 87(2)(b) in the living room. There were many officers in the apartment, but he could not recall how many. He stated a tall white officer threw § 87(2)(b) on the floor of the apartment. The officers spoke to § 87(2)(b) in English, but he did not understand what they said.

The officers approached § 87(2)(b) as well to arrest him. All of the police officers who were inside of the apartment used force against § 87(2)(b) and § 87(2)(b) however § 87(2)(b) stated that he did not observe them use force with any other individuals present. § 87(2)(b) was put on the floor. All of the officers who were in the apartment struck § 87(2)(b) with their flashlights, their hands and their knees. They hit his back and his face. § 87(2)(b) was unable to describe or identify specifically which officers hit him, at what point, and in what way. He also had difficulty describing the officers. As a result of the force, he had black and blue marks on his back, his face and his knees. § 87(2)(b) stated that he was not resisting arrest at any time during the incident.

During the incident, § 87(2)(b) was yelling and asking the police why they were arresting § 87(2)(b) and § 87(2)(b). When asked whether the officers used force with her, § 87(2)(b) stated that he did not see any officers hit her at any time. He stated that there were also officers in the hallway outside of the apartment but that they had no physical interaction with any civilians present. After § 87(2)(b) was placed in handcuffs, he was thrown on the floor. § 87(2)(b) was thrown against the wall and went unconscious.

§ 87(2)(b) stated that the incident lasted a few minutes. As a result of the incident, § 87(2)(b)'s face was swollen. § 87(2)(b) stated he was taken to the hospital (could not remember which hospital) and stayed for about one hour. The investigation showed he was taken to § 87(2)(b) § 87(2)(b) saw

§ 87(2)(b) at the precinct after they were arrested and he saw that § 87(2)(b) also had injuries as a result of the force used against him. He was bruised and his face was swollen. § 87(2)(b) was only able to see § 87(2)(b)'s face, so he could not tell if he was injured elsewhere. Both § 87(2)(b) and § 87(2)(b) asked the officers why they were being arrested, but otherwise they did not discuss the incident, because they had both been there and saw what had happened.

When asked about the language used by the officers during the incident, § 87(2)(b) stated that they used many curse words. He recalled specifically that a tall white officer called § 87(2)(b) a “motherfucker” when he was placed on the floor. He could not recall what else was said exactly. Furthermore, when asked whether the officers used their guns, he stated that about four of the officers pointed their guns at § 87(2)(b).

Police Officer Statements

PO Demonte, PO Commisso, PO Brady

PO Demonte and PO Commisso were interviewed at the CCRB on April 29, 2004, and PO Brady was interviewed on June 22, 2004. On June 1, 2003, these three officers were partners working a 2315x0750 tour, and were assigned to Operation Condor overtime. They were all dressed in uniform and assigned to unmarked patrol car #§ 87(2)(b).

At approximately 3:15 AM on June 1, 2003, PO Demonte, PO Commisso, and PO Brady responded to a call for a male stabbed at an apartment building located at § 87(2)(b). As the officers approached the scene, they observed an ambulance outside of the building attending to a victim who appeared to be stabbed numerous times. There were also many other people outside of the building showing the officers injuries they received. The officers proceeded into the building and took the elevator to the § 87(2)(b) floor, where the 911 calls directed them. The officers stated that as they exited the elevator on the § 87(2)(b) floor there were many people in the hallway, and blood everywhere. The officers went into § 87(2)(b) to conduct their investigation. A witness to the incident, named § 87(2)(b) who resides in § 87(2)(b) came up to the officers and told them that he saw the two perpetrators of the stabbing run upstairs to § 87(2)(b). The three officers then went to that apartment along with § 87(2)(b).

As the officers arrived at § 87(2)(b) they noticed there was droplets of blood outside of the door of the apartment. PO Demonte then knocked on the door, and identified himself as a NYC police officer. PO Demonte stated there was no response to the door, but he could hear a lot of movement inside the apartment. PO Demonte knocked again and informed the people inside that he could hear them moving inside. PO Demonte then unscrewed the peephole to the door because he believed there could be a victim inside the apartment along with the perpetrator. PO Demonte then looked inside the apartment and saw a motionless body lying on the floor in the hallway, along with heads peeking out of a bedroom towards the back of the apartment. PO Demonte informed the other officers what he saw inside, and then yelled through the door that he saw the people inside, and to open the door. Still, no one responded to the door. The officers assumed that exigent circumstances existed because there was blood on the door, and a motionless body in the apartment, so they called a supervisor to the scene. Sgt. Fackler from PSA 7 and Lt. Glenn from the 42nd Precinct both responded to the apartment, along with PO Thompson and ESU was called. Believing that the person lying on the ground was injured, Lt. Glenn told the officers that this was enough of an emergency where the officers could take down the door. PO Demonte and Sgt. Fackler began kicking the door. The door was eventually kicked open, and the officers entered the apartment.

PO Demonte was the first officer to enter the apartment. As he entered the apartment, he announced himself as a NYC police officer, took out his gun and pointed it down the hallway. The officers agreed that the person that was lying motionless in the living room was no longer there when they entered. PO Demonte walked towards the back of the apartment, and told whoever was in the apartment to come out. At this point, a female Hispanic came out of one of the rooms with her hands behind her back. PO Demonte pointed his gun at the female and ordered her to show her hands. She eventually did show PO Demonte her hands, and PO Demonte grabbed her hand and moved her towards the front of the apartment.

with the other officers. PO Demonte stated that he still had his gun pointed down the hallway, and was still ordering whoever was left in the apartment to come out. PO Demonte stated a second female Hispanic then came out of one of the rooms, also with her arms behind her back. PO Demonte then ordered her to show her hands, and she eventually did. PO Demonte then moved her towards the front of the apartment then same way he did with the first female. PO Brady remembered three women being taken out of the apartment. Again, PO Demonte pointed his gun down the hallway and ordered whoever was left in the apartment to come out. The officers stated a male Hispanic later identified to be § 87(2)(b) then exited the bedroom with his hands behind his back. They stated § 87(2)(b) fit the description of the perpetrator of the stabbing. PO Demonte then ordered § 87(2)(b) to show his hands. § 87(2)(b) put his arms to the front of his body, flexed his muscles, and stated, “You’re not going to get me, you’re not going to get me.” PO Demonte then holstered his gun, and grabbed § 87(2)(b) s hands to place him in custody.

As PO Demonte was attempting to place him under custody, another male Hispanic, later identified to be § 87(2)(b) came running out of another bedroom and punched PO Demonte in his mouth. PO Demonte did not want to let go of § 87(2)(b) because he did not know whether he had a weapon, so he held on to him and pulled him towards the other officers. § 87(2)(b) then punched PO Demonte in his eye, causing swelling to his eye. At this time, PO Demonte attempted to place § 87(2)(b) in custody, and PO Brady and other officers attempted to place § 87(2)(b) in custody. § 87(2)(b) resisted PO Demonte by swinging his arms and legs, punching and kicking PO Demonte. PO Commisso came to help PO Demonte handcuff § 87(2)(b) and stated § 87(2)(b) continued to fight and struggle with the officers. PO Demonte and PO Commisso both stated they also punched § 87(2)(b) in self-defense. Finally, the officers were able to handcuff § 87(2)(b). PO Demonte stated that by the time § 87(2)(b) was successfully handcuffed, § 87(2)(b) was also handcuffed. PO Brady stated that § 87(2)(b) resisted the officers’ attempts to handcuff him by punching the officers. PO Brady stated while attempting to handcuff § 87(2)(b) himself, PO Thompson, and Sgt. Fackler also punched § 87(2)(b). After § 87(2)(b) and § 87(2)(b) were successfully handcuffed, the officers walked the two males to the front of the apartment, where § 87(2)(b) identified them as the perpetrators from the stabbing. PO Demonte then handed the two males to other officers on the scene, and tended to his injuries. He stated his eye was swollen, his mouth was bleeding, and he thought he might have lost teeth.

The officers stated they did not see any of the officers strike either of the males with a nightstick, nor did they see any of the women in the apartment get punched. They did not see § 87(2)(b) knocked unconscious, stating he remained conscious throughout the incident. The officers agreed that they did not use or hear any other officers use any discourteous language during the incident. PO Demonte stated the two males did complain of injuries, and PO Demonte noticed they both had swelling to their faces. The perpetrators were then transported to the stationhouse and EMS treated § 87(2)(b) and PO Demonte for their injuries. § 87(2)(b) and § 87(2)(b) were later taken to § 87(2)(b).

Both PO Demonte and PO Commisso filled out line of duty injury reports in regards to this incident. PO Demonte received a laceration to his lip, and a contusion above his left eye. PO Commisso received an abrasion to his right elbow. Both line of duty reports state that while attempting to arrest § 87(2)(b) for a stabbing, § 87(2)(b) did strike PO Demonte in the face twice, causing his injuries. PO Commisso received his injury by falling to the ground while attempting to subdue § 87(2)(b).

Sgt. Fackler, PO Thompson

Sgt. Fackler and PO Thompson were interviewed at the CCRB on May 20, 2004. On June 1, 2003, Sgt. Fackler worked a 2305x0802 tour, and was assigned to an overtime tour with PO Thompson. PO Thompson worked a 2315x0750 tour and was assigned as Sgt. Fackler’s operator. They both were dressed in uniform and assigned to marked patrol car #9714.

At approximately 3:15 AM on June 1, 2003, Sgt. Fackler and PO Thompson were driving within the confines of the 40th Precinct. The officers received a radio run for numerous stabbings at a party in an apartment building located at § 87(2)(b) which is located within the confines of the 42nd Precinct. The officers stated that they arrived on the scene within minutes and many other units were already on the scene. The officers were told that there was a witness to the incident who stated the

perpetrators were in § 87(2)(b). When the officers arrived on the § 87(2)(b) floor, they noticed a trail of blood leading to § 87(2)(b) and stated there were already officers at the apartment, including PO Demonte, PO Commisso, and PO Brady from PSA 7, and Lt. Glenn from the 42nd Precinct. The officers agreed that the peephole was already off of the door when they arrived. Sgt. Fackler looked through the hole in the door left by the removed peephole, and saw a male lying on the floor motionless and bleeding. Sgt. Fackler stated the officers were knocking on the door before he arrived and continued to when he did arrive, with no response. Sgt. Fackler then asked Lt. Glenn how he wanted to handle the situation, and Lt. Glenn stated he would interview the witness, and the officers on the scene should kick the door in. PO Thompson testified in similar substance to PO Demonte, PO Commisso, and PO Brady in regards to how § 87(2)(b) and § 87(2)(b) were handcuffed. Sgt. Fackler, on the other hand, stated while he was assisting in handcuffing § 87(2)(b) § 87(2)(b) did not resist. Sgt. Fackler also stated that he did not see any officer punch, kick, or hit either of the males with nightsticks.

Lt. Glenn

Lt. Glenn was interviewed at the CCRB on June 22, 2004. On June 1, 2003, Lt. Glenn worked a 2300x0735 tour assigned as the 42nd Precinct's Platoon Commander, and was working with PO Ruiz. Lt. Glenn was dressed in uniform and was assigned to a marked patrol car.

At approximately 3:15 AM on June 1, 2003, Lt. Glenn responded to a radio call for people stabbed on the § 87(2)(b) floor of § 87(2)(b). Lt. Glenn responded to the § 87(2)(b) floor of the building. As Lt. Glenn arrived on the floor, one of the stabbing victims was being taken out of the building in the elevator, and another was still on the floor. Lt. Glenn stated that there were approximately 50-60 people in the hallway when he arrived and stated there was blood all over. Lt. Glenn stated that there was a party on the § 87(2)(b) floor, which resulted in a large dispute over a girl and several people were stabbed. While on the § 87(2)(b) floor, Lt. Glenn was informed that the person taken downstairs was seriously injured as a result of the stabbing. Lt. Glenn then went back downstairs and waited for EMS to arrive on the scene. While he was outside of the building, he came across a male who was stabbed in the neck and had blood pouring out of his neck. Lt. Glenn then received a radio call saying that there were more people stabbed on the § 87(2)(b) floor.

Lt. Glenn went to the § 87(2)(b) floor and stated there were many officers from PSA 7 already on the scene along with a witness who claimed that there was someone else stabbed in one of the apartments on the floor, as well as the person who committed the stabbing. Lt. Glenn stated that when he arrived at the apartment there was no peephole on the door, and the officers on the scene told him there was a male Hispanic lying motionless on the floor in the living room of the apartment, and not responding to the officers' requests to open the door. Lt. Glenn looked for himself and confirmed what the officers told him. He then had one of the officers on the scene call for ESU to open the door. ESU told the officers they would arrive within a few minutes. Lt. Glenn did not want to wait for ESU, because he feared the person inside the apartment was seriously injured, so he had one of the officers on the scene kick the door in. The officers entered the apartment and the male that was lying on the floor stood up and ran to the back of the apartment. The officers walked over to try to help him and he began to fight with the officers. Lt. Glenn stated that upon entering the apartment, the officers perceived this male to be a victim. Lt. Glenn stated the male began swinging his arms at the officers, then another male Hispanic came out of one of the rooms and also began to fight with the officers. The officers then grabbed both of the males, pushed them against walls in the apartment, handcuffed them, and took them out of the apartment. Lt. Glenn stated that this struggle lasted for less than a minute, although the two males did not comply with the officers. Lt. Glenn stated that the two males were attempting to fight off the officers trying to handcuff them, but the officers only used enough force to subdue and handcuff the males. Lt. Glenn did not see the officers throw any punches at the males at any time during the struggle, and stated that neither of the males was knocked unconscious during the incident.

Lt. Glenn did not hear any of the officers use any discourteous language during the incident. Lt. Glenn did not see any of the officers have their guns drawn at any time during the incident. Lt. Glenn stated he did notice both of the males had injuries. He did not remember what specific injuries they had, but felt they were a result of their fight on the § 87(2)(b) floor, and not of their struggle with the police. Lt. Glenn did not recall if the apartment was searched after the males were handcuffed or if any weapons were recovered. As

Lt. Glenn was leaving the apartment, he noticed there was a Hispanic female who was in the apartment who he spoke to. The female told Lt. Glenn that she heard the officers calling for someone to open the door, but the second male did not want her to open the door. Lt. Glenn stated he was in the apartment for a total of three minutes because he was not involved in handcuffing either of the males. Lt. Glenn stated he did not have any contact with either of the males after they left the scene.

Medical Records

According to the Ambulance Call Report filled out for § 87(2)(b) he received a laceration to his wrist, and abrasions to his shoulder and face. It further states that he received these injuries while resisting arrest.

Police Officer's CCRB Histories

A force and a premise entered and/or searched allegation was substantiated against PO Demonte for an incident that took place on November 7, 2002 (CCRB #200307711). PO Demonte also had a force allegation substantiated against him for an incident that took place on May 28, 2003. Both cases are still pending at the police department, and a final disposition has not been rendered. § 87(2)(g) None of the other subject officers have any substantiated allegations.

Civilian Criminal Conviction Histories

§ 87(2)(b) and § 87(2)(b) were both arrested for the stabbings that occurred at the party in § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). These criminal cases are still pending, therefore no outcome has been reached.

Conclusions and Recommendations

Undisputed Facts

§ 87(2)(g) It is not in question that § 87(2)(b) and § 87(2)(b) attended a party in § 87(2)(b) at § 87(2)(b) which resulted in a dispute. § 87(2)(b) and § 87(2)(b) returned to § 87(2)(b) after the party. Officers knocked on § 87(2)(b) and no one answered the door, so the officers took out the peephole. The officers then kicked in the door and entered the apartment with guns drawn. § 87(2)(b) and § 87(2)(b) were forcefully arrested and taken to the precinct.

Officer Identification

In a letter written to Mayor Bloomberg's Office, § 87(2)(b) identified six of the officers that were present at her apartment on the incident date. Included among these officers were PO Commisso and PO Demonte. PO Commisso was listed as the arresting officer on the arrest reports for § 87(2)(b) and § 87(2)(b). During their CCRB interviews, PO Demonte and PO Commisso identified the other officers they were working with on the incident date, and the officers who were inside of the apartment during the physical confrontation with § 87(2)(b) and § 87(2)(b). They stated Lt. Glenn, Sgt. Fackler, PO Brady and PO Thompson were all present. During their CCRB interviews, these officers confirmed their roles in the incident, and stated they were the only officers inside of the apartment during the incident. They also acknowledged using force against § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) were all shown photos of officers. § 87(2)(b) and § 87(2)(b) did not recognize any of the officers depicted in the photos. § 87(2)(b) identified Sgt. Fackler, PO Thompson, PO Brady, and Lt. O'Brien from PSA 7 as being on the scene and using force towards him. § 87(2)(b) identified Lt. O'Brien and PO Thompson as two officers who used force towards him, and stated PO Brady, PO Ruiz, and Sgt. Flynn were on the scene but did not recall what role

they played. Although § 87(2)(b) and § 87(2)(b) claimed to positively identify many of the officers they were shown photos of, they were not able to identify the photos of their arresting officer, PO Demonte, who was the first officer who entered the apartment, and received injuries as a result of the struggle with the two males, and PO Commisso who was involved in the struggle and received injuries as a result.

Credibility Assessment

§ 87(2)(b)

§ 87(2)(g)

The officers in this case claimed that § 87(2)(b) punched PO Demonte in the face, which lead to physical force being used. § 87(2)(b) was the only civilian interviewed that admits to § 87(2)(b) using force towards the officers, claiming that § 87(2)(b) tackled the officers to prevent them from hitting § 87(2)(b). § 87(2)(b) § 87(2)(b) claimed that an unidentified officer punched her in the face while she was trying to protect § 87(2)(b). § 87(2)(b) and § 87(2)(b) both claimed to have witnessed this, although § 87(2)(b) and § 87(2)(b) stated they did not see this. The officers interviewed only recalled two women being in the apartment, and stated they were both taken out of the apartment before any force was used. The officers also did not recall any women being involved in the struggle with § 87(2)(b) and § 87(2)(b) and stated they did not punch or see any women in the apartment get punched by an officer.

In his initial interview, § 87(2)(b) stated that the first officer that confronted and used force towards him was male black officer. According to all of the officers interviewed, PO Demonte, a white male, was the first officer who entered the apartment and encountered § 87(2)(b). When § 87(2)(b) viewed officer photos, he identified Lt. Edward O'brien as the first officer who used force towards him. Lt. O'brien was not identified by any other officer as being on the scene at the time the incident transpired inside § 87(2)(b).

According to the arrest photos and medical records received for § 87(2)(b) and § 87(2)(b) it is clear that they received injuries on the date of the incident. § 87(2)(g)

§ 87(2)(g)

The Officers

§ 87(2)(g)

The officers were initially taken to § 87(2)(b) because witness, § 87(2)(b) informed that the people who committed the stabbings at the party resided in that apartment. § 87(2)(g)

§ 87(2)(g)

All of the officers interviewed in regards to this complaint stated that § 87(2)(b) initiated the force used by punching PO Demonte in the face on two occasions while he was attempting to arrest § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) tackled the officers while they were using force towards § 87(2)(b) § 87(2)(g).

§ 87(2)(g)

Allegation A: Officers spoke obscenely and/or rudely to the residents of § 87(2)(b) Bronx, NY 10456.

During their interviews, § 87(2)(b) and § 87(2)(b) stated that they heard banging on the living room door, and male voices yelling, “Open the fucking door.” § 87(2)(b) did not mention any of the officers using discourteous language in her presence, and § 87(2)(b) does not speak English but did state that he heard an officer call someone a “mother fucker.” The officers interviewed in regards to this complaint stated they did not use any discourteous language, nor did they hear any other officer using or saying anything discourteous. PO Demonte stated while outside of the apartment he knocked on the door numerous times, and identified himself as an officer, and no one responded. He then unscrewed the peephole and saw someone lying on the ground in the living room, as well as people’s heads peeking out of a bedroom. PO Demonte then informed the people that he could see them and to open the door. § 87(2)(g)

§ 87(2)(b). It should also be noted that officers may use discourteous language to gain compliance in stressful situations, as per OATH case “PD v. Bitchachi and Matias,” OATH Index No. 1996/00. § 87(2)(g)

Allegation B: Lt. James Glenn authorized the entering of § 87(2)(b) Bronx NY 10456.

After PO Demonte removed the peephole, he noticed that a male Hispanic was lying motionless on the ground, and not responding to the officers’ requests to open the door. When Lt. Glenn arrived at the apartment, the officers who were already there informed him of what they saw inside. Lt. Glenn looked for himself to confirm what the officers told him, and made the determination that the officers should gain entry to the apartment because someone may be injured inside. Lt. Glenn then told PO Demonte and Sgt. Fackler to kick the door open. According to the emergency doctrine as outlined in Kamin’s Search and Seizure Law, “a police officer can enter a premises without a warrant to protect individuals in distress, to

assist victims of crimes that have just occurred, or to investigate suspicious signs of impending danger.” 708 NYS2d 795, pg. 333. § 87(2)(g).

Allegation C: PO Anthony Demonte drew his gun.

Allegation D: PO Harold Thompson drew his gun.

Allegation E: Officers drew their guns.

§ 87(2)(b) and § 87(2)(b) both stated that all of the officers had their guns drawn upon entering the apartment. PO Demonte stated that he was the first officer who entered the apartment, and did draw his gun upon entering the apartment, but was not. During his interview, PO Thompson stated that all of the officers, including him, had their guns drawn upon entering the apartment. The civilians claimed that all of the officers who entered the apartment had their guns drawn. § 87(2)(g)

Page 17 of the NYPD Training Manual states drawing the firearm should only be done under circumstances in which officers reasonably believe that they may soon have to use deadly force to defend themselves or others against lethal assaults. It also lists three such circumstances, which are responses to violent crimes in progress, searches for hidden or fleeing violent crime suspects, and confrontations with known violent offenders or persons alleged to have committed crimes punishable by lengthy sentences.

§ 87(2)(g)

Allegation F: PO Anthony Demonte pointed his gun at § 87(2)(b)

As was mentioned earlier, PO Demonte stated he had his gun drawn during the incident. He further stated that as he moved towards the back of the apartment, people began to exit the bedrooms with their arms behind their backs. PO Demonte stated he was fearful because of the type of situation he was involved in, and he did point his gun at people in the apartment, including § 87(2)(b) § 87(2)(g).

Allegation G: PO Anthony Demonte used physical force against § 87(2)(b) and § 87(2)(b)

Allegation H: PO Vincent Commisso used physical force against § 87(2)(b) and § 87(2)(b)

Allegation I: PO Daniel Brady used physical force against § 87(2)(b) and § 87(2)(b)

Allegation J: PO Harold Thompson used physical force against § 87(2)(b) and § 87(2)(b)

According to the officers’ statements, while PO Demonte was attempting to handcuff § 87(2)(b) § 87(2)(b) punched PO Demonte in the face. This is documented in PO Demonte’s memo book, as well as the line of duty reports for PO Demonte and PO Commisso. This led the officers to rush to the back of the apartment and attempt to apprehend the two males. As the officers were trying to handcuff the two males, the males were resisting by punching and kicking the officers. The officers admitted to punching the two males in self-defense, until they were successfully handcuffed. According to page 7 of the PD Training Manual entitled “Scale of Escalating Force,” which lists the appropriate force response to certain provocations and conditions, officers can use impact techniques including the use of batons, fists, and feet when physical assault likely to cause physical injury is used against them. § 87(2)(g)

Allegation K: An officer struck § 87(2)(b) with a nightstick.

§ 87(2)(b) stated that while the officers were attempting to handcuff § 87(2)(b) an unidentified male black officer hit him with a nightstick. § 87(2)(b) and § 87(2)(b) are the only two people, civilian or officer, who mentioned a male black officer. In addition, during his interview, § 87(2)(b) stated that none of the officers hit him with any type of object including a nightstick. § 87(2)(g)

Allegation L: An officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that the same male black officer who hit § 87(2)(b) with the nightstick punched her in the face when she tried to protect § 87(2)(b). None of the officers interviewed recalled any of the females in the apartment being involved in the struggle with § 87(2)(b) and § 87(2)(b). They stated the women were taken out of the apartment before it transpired. § 87(2)(b) did not claim to be injured or receive any medical treatment for being punched, § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: